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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,894	12/27/2001	Timothy J. Lalley	100110012-1	1270

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Intellectual Property Administration
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EXAMINER

MENDOZA, ROBERT J

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,894

Applicant(s)

LALLEY ET AL.

Examiner

Robert J Mendoza

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

- I. Claims 1-16, drawn to a system and method of playing a game, classified in class 463, subclass 51.
- II. Claims 17-21, drawn to a method of making a display strip, classified in class 40, subclass 452.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as the display strip can be utilized for other games and purposes. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Trueman H. Denny III on February 3, 2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Brucker et al (USPN 4,487,583).

Brucker, in FIGS. 1-4, col. 2:29-67 and col. 3:21-67, illustrates and discloses a system and method of playing a game comprising applying at least one display strip to at least one player, wherein the display strip comprises a plurality of lights and wherein the lights are capable of displaying images, receiving input from at least one player, providing out signals to the display strip and displaying images on the display strip. Brucker, in col. 2:29-67, col. 3:21-67 and col. 4:62-67, discloses providing output signals indicative of the player's status in the game and displaying the player's status in the game on the display strip. Brucker, col. 3:21-67 and col. 4:62-67, discloses the display strip comprises a plurality of display strips and at least one player comprises a plurality of players, and wherein the step of applying at least one display strip to at least one player comprises applying at least one display strip to each player. Brucker, in col. 3:21-67 and col. 5:6-37, displaying each player's game status, providing output signals from a game processor, receiving input provided by a simulated weapon shot. Brucker, in FIGS. 1-7, col. 3:21-67, col. 5:6-37 and col. 11:4-20, discloses a processor, a plurality of input devices in communication with the processor, at least one sensor, wherein the sensor is capable of sensing radiation from a simulated weapon firing and providing an output to the processor in response to the simulated weapon firing. Brucker, 3:21-67, col. 5:6-37 and col. 11:4-20, discloses the processor comprises a hand-held microprocessor capable of executing stored game information.

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Brucker, in col. 9:45-67 and col. 11:17-21, discloses emitting an audible sound from the display strip.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM

RM
February 3, 2004


Teresa Walberg
Supervisory Patent Examiner
Group 3700